**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.1192/07

Sanjeev Kumar Jain

**Versus**

Ravindra Kumar Sharma

**DATE OF ORDER :: 22/10/2007**

**HON'BLE MR. JUSTICE AJAY RASTOGI**

Mr. Santosh Kumar Jain, for petitioner
Mr. N.C. Goyal, for respondent

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Instant petition has been filed assailing the order dated 26th June, 2007 whereby learned trial Judge dismissed the application filed by petitioner with the request to send the disputed cheque to FSL for its report and revision petition against the said order was also dismissed by a detailed order.

Accused-petitioner is facing trial for offence committed u/s.138 of Negotiable Instrument Act.

Basic objection was raised by him during the course of trial that no such endorsement has been made by him in favour of complainant. As such for proper defence, disputed cheque is required to be sent to FSL for its report. Learned trial Judge after taking into consideration the material observed that the complainant was holder of cheque and as per Clause (c) of Section 138 being holder in due course made him competent for

filing complaint u/s.138 of the Act and even if endorsement has not been made in his favour it will be of no effect.

In support of his submission, counsel placed reliance on the judgment of apex court in **Kalyani Baskar Vs. M.S. Sampoornam [(2007) 2 SCC-258]**.

So far as present petitioner is concerned, he is drawer of the cheque and even if endorsement as alleged by him is disputed, the complainant appears to be holder of cheque in due course which has made him competent to file complaint u/s.138 of the Act. After going through the order, this court does not find any infirmity in the order impugned which may call for interference.

So far as judgment in **Kalyani Baskar Vs. M.S. Sampoornam** [supra] is concerned, basically the signature of drawer itself was disputed and sufficient material placed on record to show before learned trial Judge that drawer has not signed the cheque in question of which complaint has been filed, it has no bearing so far as instant matter is concerned.

Consequently, this court finds no substance in the misc. petition, the same stands dismissed.

**[AJAY RASTOGI],J.**